

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Implementation of Section 621(a)(1) of
the Cable Communications Policy Act of
1984 as Amended by the Cable
Television Consumer Protection and
Competition Act of 1992

MB Docket No. 05-311

**REPLY COMMENTS ON SECOND FURTHER NOTICE OF PROPOSED RULEMAKING
BY**

THE NORTHERN DAKOTA COUNTY CABLE COMMUNICATIONS COMMISSION

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REPLY COMMENTS

These Comments are submitted in response to the November 14, 2018 Comments of NCTA – The Internet & Television Association (“NCTA” and the “NCTA Comments”) on the Federal Communications Commission’s (the “Commission”) September 25, 2018 Second Further Notice of Proposed Rulemaking (“*Second FNPRM*”) in MB Docket No. 05-311.¹ The Northern Dakota County Cable Communications Commission (“NDC4”) submitted initial comments as part of the City Coalition.

I. INTRODUCTION

The NCTA Comments mischaracterize the exchange of value that occurs in cable franchises generally, and specifically as it relates to NDC4. Furthermore, throughout its Comments, the NCTA inappropriately uses terms such as “requirements,” “impose,” “exactions,” “demanding in-kind assessments,” and, “abuses” to demonize local governments and falsely frame the true nature of the federally and statutorily proscribed franchise renewal process.

¹ *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, Second Further Notice of Proposed Rulemaking, MB Docket No. 05-311, FCC-18-131 (Sept. 25, 2018) [*hereinafter Second FNPRM*].

The history of non-monetary consideration in franchises stretches back to the 1980's, and importantly, was offered up by cable companies as part of their efforts to obtain and maintain their incumbency advantage in local communities. To now characterize the non-monetary compensation freely negotiated by industry as an extraction,² is not only inaccurate, but ignores the true mutual benefits of these agreements.

The history of cable franchising in the NDC4 community is informative. In the 1980's multiple operators wooed local governments with rich cable franchise offerings. The proposals included significant non-monetary consideration such as PEG channels and technical support (including signal backhaul for live programs), public access studios and services (such as training and facilitation to teach members of the public how to produce their own programs), institutional networks (I-Nets), interconnection with neighboring PEG stations to allow sharing of programming, narrowcasting, access to satellite delivered non-commercial programming using head-end equipment and connections, free cable to schools, libraries, and city facilities (allowing the operators to embed their product and their brand throughout a local community), PEG support grants, promotional support (such as PSAs on unsold ad avails, and bill stuffers), EAS emergency alerts for local public safety and weather incidents, and even the early predecessors to interactive services (pre-internet). Yet, soon after the first non-exclusive franchises were granted, cable providers in the Minneapolis-St. Paul area began retreating on promises and requesting "variances" and relief from the franchise agreements and commitments that they had made. In NDC4's case, the cable operator requested, and was granted, variances and opportunities to re-negotiate and delay several major provisions, including I-Net, interconnection and narrowcasting.

² NCTA Comments, p. 3.

Since 1985, the franchised cable operator in the NDC4 cities has thrived on the benefits of incumbency, allowing it to ultimately build and develop a triple/quadruple/quintuple play package that holds a privileged position in the marketplace. As noted in the Comments of the City Coalition,³ the non-monetary consideration negotiated as part of a franchise is the sole value offered for the right to provide cable service within an applicable jurisdiction. NCTA now contends that the carefully negotiated franchise agreement be altered, and one party (the public) suddenly receives no value for that right.

The NDC4 has been a partner with the incumbent cable operator for over three decades. The NDC4 recognizes the value to the community of having a successful, profitable company that is employing people and providing quality services to residents. Having the active, local partnership with the NDC4's member cities, the privilege of product placement in the schools, libraries, and city facilities, a local subscriber complaint office to facilitate quick resolution of problems and help with customer retention, and the uniquely local PEG channels, are all major benefits to the cable operator that have contributed to its success and dominance in the marketplace. The consideration that is provided to the NDC4 and its member cities in exchange for these competitive advantages is largely made up of the important non-monetary PEG technical and marketing support items that are built into the mutually agreed upon franchise.

LFAs and cable operators have a unique partnership. The arrangement provides many benefits to the franchised cable operator, including the differentiating exclusively local PEG content that only the cable operator has on its channel lineup. PEG channels and programming are a marketing benefit for the cable operator. The NDC4 regularly hears from subscribers wanting to know what options are in the community that include its local PEG channels.

³ City Coalition Comments, p. 10-13.

The NDC4 has a rather small staff of 13 employees, but it leverages hundreds of volunteers, partners with community organizations, and augments its budget with earned revenues and non-profit funding, to provide the cable operator with hundreds of hours of live and recorded/edited local PEG programs. Comcast currently remits to the NDC4 a monthly per subscriber PEG fee of \$1.87. In return Comcast receives the benefit of seven (7) locally programmed PEG channels and 1,400 to 1,500 hours of uniquely local programming per year. These local PEG programs create viewer loyalty and differentiate the cable operator's channel lineup from the satellite dish and other media options that have become void of local content. Surveys consistently show that cable subscribers place a higher dollar value on local PEG programming than many of the commercial channels or tiers of service.

By drastically revising these long-term mutually beneficial agreements in favor of the cable operators, the FCC would be unfairly taking away a valuable community asset that is relied upon by local governments, their residents and taxpayers for no apparent reason other than providing financial benefit to the cable industry.

II. NDC4 RENEWAL PROCESS

In addition to mischaracterizing the role of non-monetary consideration in the franchise process generally, the NCTA Comments misrepresent the ongoing formal franchise renewal process between the NDC4 and Comcast. Rather than issuing a set of "demands," the NDC4 has followed applicable federal and state law to seek a cable franchise renewal with the incumbent cable operator. That process has involved sizable investment by the NDC4 in order to ensure cable offerings are tailored to the cable-related needs and interests of residents. This is exactly

the process envisioned by Congress.⁴ NCTA's mischaracterization of the NDC4 renewal process should be disregarded and given no weight by the Commission.

Under the Cable Act the cable operator or a franchising authority can invoke the more formal renewal procedures set out at 47 U.S.C. § 546(a)-(g). These "formal" procedures give a cable operator the opportunity for a fair hearing on its renewal proposal. At the same time, the procedures ensure that a franchising authority can deny renewal if a cable operator has performed poorly in the past, or is not qualified, or is not willing make a reasonable proposal to meet the community's needs and interests for the future. Under the formal process, a community is given authority to ascertain the needs and interests of the community. It is up to the cable operator to then submit a proposal that is reasonable to meet the community's cable-related needs and interests, taking into account the costs of meeting those needs and interests. The legislative history of the 1984 Cable Act explains:

The ability of a local government entity to require particular cable facilities (and to enforce requirements in the franchise to provide those facilities) is essential if cable systems are to be tailored to the needs of each community [and the legislation] explicitly grants this power to the franchising authority.⁵

More specifically, the formal renewal process under the Cable Act is a four-stage process. In the first stage, a franchising authority must conduct a proceeding to identify future, cable-related needs and interests of the community, and to review the past performance of the cable operator serving the community.⁶

⁴ H.R. Rep. 98-934, 1984 U.S.C.C.A.N. at 4461 (directing that "the franchise process take place at the local level where city officials have the best understanding of local communications needs and can require cable operators to tailor the cable system to meet those needs.").

⁵ 1984 House Report at 26, 1984 U.S.C.C.A.N. at 4663. Congress intended that: "the franchise process takes place at the local level where [local] officials have the best understanding of local communications needs and can require cable operators to tailor the cable system to meet those needs." 1984 House Report at 24, 1984 U.S.C.C.A.N. at 4661. However, the Cable Act does not give local government unlimited authority to impose conditions on cable operators. For example, it limits local authority to require an operator to carry a specific programming service.

⁶ 47 U.S.C. § 546(a).

Once that proceeding is complete, a franchising authority may issue a Request for Formal Renewal Proposals (“RFRP”). Because each renewal proposal is evaluated on its own merits, this RFRP cannot simply be a competitive bidding document.⁷ The Cable Act specifically allows a franchising authority to establish certain requirements in an RFRP. In particular, a franchising authority may:

(a) require “that channel capacity be designated for public, educational or government use, and channel capacity on institutional networks be designated for educational or governmental use, and may require rules and procedures for the use of channel capacity designated....”⁸

(b) “establish requirements for facilities and equipment. . .”⁹

(c) require adequate assurance that the cable operator will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support;¹⁰

(d) require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service;¹¹

(e) establish requirements for system upgrades to ensure that the community has adequate infrastructure.¹²

The Cable Act also states that “[a] franchising authority may establish and enforce customer service requirements of the cable operator, and construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.”¹³ These provisions of the Cable Act permit the NDC4 to establish needs and interests in a needs assessment report, along with various other obligations established pursuant to the NDC4’s police and other governmental powers.

⁷ 47 U.S.C. § 546(b).

⁸ 47 U.S.C. § 531(b).

⁹ 47 U.S.C. § 544. The legislative history explains that this includes requirements for institutional networks, studios, equipment for public, educational and government use, two-way networks.

¹⁰ 47 U.S.C. § 541 (a) (3).

¹¹ 47 U.S.C. § 541 (a) (4).

¹² 47 U.S.C. § 546(b) (2).

¹³ 47 U.S.C. § 552

In the next stage of the renewal process, the cable operator must submit a renewal proposal in response to the franchising authority's needs assessment report. There are four issues that are considered when assessing an operator's formal renewal proposal - whether:

- (a) the operator has substantially complied with the material terms of the existing franchise and with applicable law;
- (b) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of cable services or other services provided over the system, has been reasonable in light of community needs;
- (c) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in its proposal; and
- (d) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.¹⁴

The NDC4's Needs Assessment Report was submitted to Comcast to discharge one of the NDC4's important responsibilities under the Cable Act. With the submission of its Needs Assessment Report, the NDC4 identified the future cable-related needs and interests of the NDC4, its member cities and its constituents.

A. NDC4 Needs Assessment Report

NDC4 initiated the renewal process by preparing the Needs Assessment Report. That Needs Assessment Report was formulated by using a thorough community process involving residents, non-profit organizations, businesses, schools and colleges, libraries, city and county departments, and multifaith organizations, all at a sizable monetary investment by the NDC4. Through a combination of surveys, focus group meetings, and expert independent consultant audits and studies, the NDC4 secured an in-depth community needs assessment to evaluate the local community's cable related needs and interests over the next ten years.

¹⁴ 47 U.S.C. § 546(c).

NDC4 published the Needs Assessment Report, which included a model cable franchise document, on or about April, 4, 2018 and invited Comcast to respond with a formal proposal. This is all consistent with state and federal law.¹⁵ In fact, the NDC4 model franchise was based on the existing cable franchise that has been in place between the NDC4 and Comcast since the year 2000 and remains in effect as of the date on these comments. The NDC4 model franchise actually proposed to *reduce* Comcast's obligations from its 2000-2018 existing franchise to recognize marketplace and regulatory changes.

B. Components of NDC4 Needs Assessment

The NCTA inaccurately characterizes elements of the NDC4 Needs Assessment Report as a set of “demands”.¹⁶ Rather, as discussed above, the Needs Assessment Report identified the needs and interests of the NDC4 community and how those needs and interests could be met. Further, NCTA takes certain items out of context, omits material facts, or misstates what has occurred to date. Again, its Comments regarding the NDC4 renewal proceeding should be given no weight in this proceeding.

1. PEG Channels

The NDC4 consists of seven member cities. Each member city has had a standard definition (“SD”) PEG channel on Comcast's channel lineup since 1985. In the original franchise (executed in 1985), the operator agreed to provide “narrowcasting,” to allow government meetings to be distributed to individual member cities within the NDC4 service area, thereby saving channel bandwidth for the cable operator. Though the cable operator agreed to provide this narrowcasting service as part of the franchise, the operator later claimed that it was not technically capable of providing the narrowcasting service. As a result, the NDC4 either

¹⁵ 47 U.S.C. § 546(a-c).

¹⁶ NCTA Comments, p. 44.

provided “variances” to the franchise requirements or agreed not to enforce franchise requirements that had been agreed to by the operator. The operator’s inability to narrowcast is therefore a contributor to the existence of seven PEG channels because government meetings for all seven cities must be cablecast broadly across the seven-city area, using two, three, or sometimes four separate PEG channels on the same evening for live coverage.

NCTA also omits important discussion of high definition (“HD”) programming. To date, NDC4 still does not have a single HD PEG channel on Comcast’s system. Yet, the NDC4 PEG station has considerable HD production capabilities. Further, the Needs Assessment Report shows that HD channels are needed by the community. As subscribers become accustomed to viewing all other commercial programming in HD, relegating PEG channels to SD creates a cable “second-class viewing tier” where subscribers are unlikely to find the PEG programming. Importantly, in both its model franchise and in informal renewal proposals, the NDC4 has offered to reduce the number of PEG channels in exchange for HD capability. This is despite the presence of a second franchised competitive cable provider that in 2016 agreed to provide all seven (7) of the NDC4 PEG channels in both SD and HD. Meanwhile, Comcast continues to offer no HD PEG programming on the NDC4 PEG channels.

2. PEG Fee

The needs assessment identified PEG capital needs. While Comcast currently remits a per subscriber monthly PEG fee of \$1.87, Comcast previously had indicated an interest in migrating the PEG fee to be calculated as a percentage of gross revenues rather than a flat fee per month. The rationale for this change includes the ease of calculation and removal of some of the innate audit/review questions that are naturally a part of the flat fee model. At least one neighboring jurisdiction in the Twin Cities of Minnesota recently agreed with Comcast in an

informal renewal franchise on a 3% PEG support amount.¹⁷ Importantly, the NDC4 Needs Assessment Report indicated that a 3% PEG fee would not meet the full PEG capital needs of the NDC4 over the ten-year term.

3. Advertising

Since 1985, NDC4 and the operator, now Comcast, have agreed that NDC4 can place 30-second non-commercial public service announcements (“PSAs”) that are produced and provided by NDC4 in unsold advertising availability spots across Comcast’s non-PEG channels. Thus, the placement of advertising spots is merely a continuation of the current franchise, which was a renewal of the original franchise going back to 1985. Further, since these spots are placed in run-of-schedule unsold advertising slots, there is literally no cost to the operator, nor any lost revenue opportunity. NDC4 is required to upload the spots in the cable operator-required file format using an automated upload system that is very efficient, and is the same system used for local advertising insertion, meaning there is no operational cost for the cable operator. The presence of these advertisements is a branding and community outreach opportunity for Comcast to promote the local community programs that it uniquely carries, that cannot be found on its satellite dish competitors. Finally, all production of these branding spots is paid for by the NDC4.

4. Cable Service to Municipal Locations

Again, NCTA falsely characterizes continuation of over 30 years of practice as “demands.” In fact, the operator has repeatedly offered in each of its informal proposals and in its formal proposal to continue the free cable offering in schools without offsets against franchise fees, regardless of the Commission’s decisions regarding in-kind consideration. Cable operators

¹⁷ North Suburban Communications Commission (“NSCC”) Cable Television Franchise Ordinance with Comcast which became effective in the fall of 2017 and include a 3% PEG fee.

clearly recognize the benefit and the value of being allowed to have product placement in K-12 public and private schools, community and technical colleges, libraries, and other public places. The privilege of having the franchised cable operator's product and brand displayed in schools, libraries, and city facilities should be seen as a valuable benefit of the franchise and not an obligation to the operator.

The NDC4 has worked in cooperation with Comcast to recognize and exclude those locations that should be legitimately viewed as a commercial viewing area, such as the lobby of a city hockey arena or public viewing area of a golf course. The NDC4 agrees that free service should be limited to places needed for PEG programming signal monitoring or non-profit community locations that are not places of public entertainment that require a private or commercial account (i.e. schools, etc.). The example cited by NCTA of free service to "golf courses," is both misleading and inaccurate. Comcast has provided such complimentary services to certain golf courses in the NDC4 service area for over 18 years under its existing franchise. The NDC4, in its Needs Assessment Report and model franchise, simply included the same list of complimentary service locations where Comcast is already providing complimentary cable service. If Comcast desires to disconnect service to certain existing locations as part of its renewal proposal, Comcast is certainly free to make such a proposal and provide the reasons for its changed position. But it is misleading and false to suggest the NDC4 has "demanded" complimentary cable services to any new locations other than those where Comcast has served for over 18 years. It is disappointing that NCTA has chosen to present LFA's in a false and negative light when NDC4 has worked very hard to partner and communicate honestly and cooperatively with Comcast since 1985.

5. *Satellite and Live Feeds*

“Six satellite feeds” - The NDC4 and its non-profit access entity are proud to have curated multiple, non-commercial, free, satellite program offerings that meet the unique local cable-related needs and interests of the community. Comcast has satellite dishes already in place that have been paid for and used for these same purposes for over thirty (30) years. This is simply a continuation of what Comcast currently provides under its existing franchise. Comcast is using legacy bandwidth on the cable system to deliver this program content during partial scheduling periods on local PEG channels. This provides local cable subscribers with content including international news, foreign language content, university and military programming, classic non-commercial arts, science and STEM content, live historical re-enactments, and much more. This is a value added enhancement for Comcast, as the NDC4 is allowing its dedicated PEG channels to be utilized for additional content enhancement that differentiates Comcast from its competitors, carrying content that meets local community needs and interests, and not requiring Comcast to use its own channel bandwidth for this content.

“26 live feeds from neighboring cable systems for sharing of PEG programming” – This provision is another example of the NDC4 agreeing to a compromise solution to remedy a promise made under the original franchise that could not be met. The original franchise proposal in 1985 offered interconnection with neighboring communities, to allow efficient sharing of live PEG programming that involved two neighboring communities. The NDC4 granted several “variances” when the operator could not deliver on its offerings, and ultimately the NDC4 agreed to this alternative language to accommodate Comcast’s request for relief from the original commitment. These feeds are simply a continuation of what Comcast currently provides under the existing franchise with the NDC4.

6. *Fiber Drops and Returns*

Again the NCTA inaccurately characterizes this as a “demand” or “requirement,” and fails to provide the historic context, resulting in the example being used to support the exact opposite of the true nature of this item. Starting with the original cable franchise granted to Comcast in 1985, the operator proposed to provide the ability to transport live PEG signals using a portion of spectrum on the operator’s co-axial cable network. For example this transport system was used to deliver live city council meetings, sporting events, music concerts, graduation ceremonies, and many other programs from public locations in the seven-city region that comprises the NDC4 franchise area. Under the original franchise, these live signal transports were referred to as “return paths.” These return paths were delivered to the NDC4’s master control facility, and then to Comcast’s head-end via Comcast’s subscriber (coaxial) network. The original franchise specified return paths for six high schools, many elementary and middle schools, four city halls, three libraries, and many other public locations, and the operator provided the return paths as they had agreed.

When the initial 15-year franchise was renewed in the late 1990’s (effective date March 2000), Comcast was conducting a massive fiber upgrade to its plant and renovating the network to a hybrid fiber-coaxial system. Comcast was also planning to introduce or upgrade its telephone and internet offerings at that time. During informal renewal discussions, Comcast expressed a desire to free up spectrum on its coaxial subscriber network for the bandwidth it needed for its voice and data products. The operator desired to move all of the PEG transport functions (or as many as possible) onto the newly negotiated and to-be-constructed fiber Institutional Network (I-Net) that would be serving many of the public locations mentioned above. The NDC4 was agreeable to that preference by Comcast.

As emphasized below, the public entities that would be using the separate fiber I-Net (school districts, cities, county, community college, and state) agreed to (and did) reimburse Comcast for the materials and labor cost of the incremental fiber. Moreover, the agreement with Comcast included full cost reimbursement *and* a 12% profit margin *and* an 8% interest rate, for entities that financed the project rather than paying a lump sum up front. In total, Comcast received well over \$800,000 in reimbursement for construction of those 40 fiber sites. So the inclusion by the NCTA of this mutually agreeable I-Net solution on a list of examples of “recent demands and requirements,” and labeled as “exactions,” and, “abuses,” is not only inappropriate and misleading, it is simply false. The Needs Assessment Report only reflected the continuation of an I-Net that the users fully funded with the mutual agreement of Comcast.

7. *VOD Storage*

Comcast currently provides the NDC4 up to eight (8) hours of SD, or up to two (2) hours of HD, VOD storage shared by all seven member cities of the NDC4. The Needs Assessment Report concluded that an important need and interest to be addressed is to allow cable subscribers to view PEG programming on Comcast’s VOD system in similar form and function to all other commercial VOD programs provided on Comcast’s system. Prior to the Needs Assessment Report being published, NDC4 granted a second competitive cable television franchise to CenturyLink. CenturyLink agreed to provide 25 hours of SD or HD VOD storage per city. In order to meet the level playing field provisions of Minnesota law,¹⁸ the NDC4 included the same 25-hour VOD language in its Needs Assessment Report. Comcast, as an applicant for renewal of its cable franchise, has the opportunity to make a proposal to the NDC4 to meet the community’s needs and interests or demonstrate that the costs associated with

¹⁸ Minn. Stat. § 238.08.

meeting such needs and interests render them unreasonable.¹⁹ This is incorrectly maligned as an inappropriate demand. The NDC4 is adhering to the renewal process set forth in the Cable Act²⁰ and Minnesota Statutes 238.08 in processing Comcast's renewal request.²¹

8. *I-Net*

After granting Comcast²² multiple variances and time extensions from 1985 to 2000, the NDC4 and Comcast informally agreed in 2000 to a mutually beneficial arrangement to add 40 institutional sites. This addition occurred as part of a massive fiber upgrade to Comcast's system in the Twin Cities. Comcast was fully reimbursed by the I-Net users for the cost of construction, including labor and materials, *as well as a 12% profit markup and an 8% finance rate*. These costs were reimbursed by the schools, libraries, cities, colleges, and the state for the construction of the I-Net on mutually agreed upon terms.

The Needs Assessment Report and the NDC4 model franchise addresses the future of the I-Net and presents a different picture than NCTA's characterizations. In its model franchise, the NDC4 modernized the I-Net franchise language to reflect that the I-Net is now an existing network rather than a new construction project. The Needs Assessment Report and model franchise actually contemplate reviewing the existing 40 sites, determining which are still being actively used, and returning unused fiber capacity back to Comcast *despite the fact that the users fully paid for the construction* and the existing cable franchise contemplates the continuing use of the I-Net through any future renewal of the franchise. Moreover, the Needs Assessment Report contemplates paying Comcast a reasonable maintenance fee for any fiber that remains in use by the I-Net users. To be clear, this is fiber capacity that was constructed with full reimbursement

¹⁹ 47 U.S.C. § 546(c).

²⁰ 47 U.S.C. § 546(a-c).

²¹ *Id.*

²² The variances were granted to cable operators that owned and operated the cable system before Comcast's acquired those operators and the cable franchises in the NDC4 service area.

at a cost of over \$800,000 to the I-Net users, including a 12% profit margin to the cable operator and an additional 8% interest rate for any users who chose to finance the payments over five years.

The NCTA also fails to point out that both the 2000-2018 franchise agreement and the Needs Assessment Report allow Comcast to avail itself of any unused capacity on this I-Net fiber system for Comcast's own commercial use (again, fiber for which the construction and materials were paid for by the I-Net users including schools, cities, libraries, and colleges). This original I-Net agreement was a mutually beneficial partnership for residents, taxpayers, local institutions, and Comcast. The NDC4 has been more than willing to modernize and update the franchise agreement to reflect today's marketplace and its current needs and interests.

In its August 2018 formal franchise proposal, Comcast was totally silent on the subject of "I-Net," and did not respond to the Needs Assessment Report, giving the NDC4 no information or communication on its current position regarding the I-Net. Meanwhile, in informal negotiations, the two parties have discussed a future model where Comcast would be allowed to re-capture a large amount of institutional fiber bandwidth for its own use, and would be paid very generous rates for the ongoing use of some of the fiber by I-Net users, despite the fact that Comcast was already reimbursed for the I-Net construction costs. The NCTA's use of this example in its Comments is inaccurate and should not be considered as part of the record in this proceeding.

III. CONCLUSION

The examples that NCTA includes as NDC4 "demands" are mischaracterizations of facts on the ground, and unfortunately appear to be intended by the NCTA to demonize local governments and feed into the industry mantra of local governments as "barriers" and "obstacles." This creates an unfair and negative public image of local governments which, in

truth, serve as the stewards of the public rights-of-way and advocates for consumer protection. Local governments need to prudently manage the public rights-of-way in the same way the FCC must steward the public airwaves on behalf of consumers and taxpayers. Neither competition nor deployment will be advanced by forcing public entities to subsidize private businesses.

Local governments understand and embrace the values of competition and deployment when unleashed for the benefit of consumers and taxpayers, and local governments have been active partners in assisting cable operators in delivering their services, upgrading their technologies, and maintaining their customers. The NDC4 has demonstrated its desire to grant a modern, state of the art cable franchise to Comcast and thereby enter its fourth decade of partnering with this company and its predecessors. Without question Comcast has benefited greatly from the cable franchise first granted back in 1985.

We ask that the FCC accept and take seriously the corrections to NCTA's Comments discussed above. The NDC4 also asks the Commission to consider the broad impact of NCTA's misrepresentations of not only the NDC4, but the many other LFAs across the country that have been inappropriately accused of similar "abuses."

Respectfully submitted,

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